

SENATE BILL 2753

By Person

AN ACT to amend Tennessee Code Annotated, Title 55, relative to titling and registration of motor vehicles.

WHEREAS, on January 13, 1998, the Supreme Court of the United States entered a decision in *Fidelity Financial Services, Inc., v. Richard V. Fink, Trustee*, \_\_\_\_ U.S. \_\_\_\_, No. 96-1370 (January 13, 1998); and

WHEREAS, the Court held "that a transfer of a security interest is 'perfected' under Section 547(c)(3)(B) [of the bankruptcy code] on the date that the secured party has completed the steps necessary to perfect its interest, so that a creditor may invoke the enabling loan exception only by satisfying state law perfection requirements within the twenty (20) day period provided by the federal statute"; and

WHEREAS, it is imperative for the efficient commerce of the state of Tennessee and the protection of creditors that state law comply with the strict requirements of the bankruptcy code; and

WHEREAS, state law can define those steps which are necessary to perfect an interest within the twenty (20) days provided by the bankruptcy code; Now, Therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-3-126 (b)(1), is amended by adding the following:

Provided, that additionally, when a previous first lienholder has been satisfied and a different first lienholder is created on a motor vehicle, the security interest or lien is

**\*40000001\***

40000001

**\*010457\***

\*01045759\*

perfected by delivery to the division of motor vehicles or the county clerk an application for a certificate of title containing the name and address of the holder of a security interest or lien with vehicle description, the required fee, and:

(A) if the ownership is being transferred, a bill of sale executed by the prior owner and a security agreement or financing statement executed by the subsequent owner; or,

(B) if the ownership is not being transferred, a security agreement or financing statement signed by the owner of the vehicle.

SECTION 2. Tennessee Code Annotated, Section 55-3-126(b), is amended by deleting item (2) in its entirety and by substituting instead the following:

(2) The security interest is perfected as of the time of its creation if the delivery is completed within twenty (20) days thereafter. Otherwise, a security interest is perfected as of the date of delivery to the county clerk or the division of motor vehicles.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.